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**PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**Name WANG CHARLES S.  
(Last) (First) (Initial)RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAPrisoner Number DUH740 / 08033629Institutional Address 701 S. Abel Street, Milpitas, CA 95035

FILED

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

JUN 19 2008

CHARLES WANG  
(Enter the full name of plaintiff in this action.)RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

vs.

Case No. CV08-2692 PJH  
(To be provided by the clerk of court)Tanya Smith; Judge Kenneth  
Shapiro; Admir Alum (Asst DA)  
Officer Zen**PETITION FOR A WRIT  
OF HABEAS CORPUS**

E-filing

(Enter the full name of respondent(s) or jailor in this action)

**Read Comments Carefully Before Filling In****When and Where to File**

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or  
 3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which  
 4 you are imprisoned or by whom you were convicted and sentenced. These are not proper  
 5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief  
 7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose  
 8 custody you are now and the Attorney General of the state in which the judgment you seek to attack  
 9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

## 11 1. What sentence are you challenging in this petition?

- 12 (a) Name and location of court that imposed sentence (for example; Alameda  
 13 County Superior Court, Oakland):

14 SANTACLAARA COUNTY, SUP. CRT. SAN MARTIN, CA

15 Court SOUNTY COUNTY Location

- 16 (b) Case number, if known FF 405914

- 17 (c) Date and terms of sentence Original 80 days + Probation

- 18 (d) Are you now in custody serving this term? (Custody means being in jail, on  
 19 parole or probation, etc.) Yes ✓ No

20 Where?

21 Name of Institution: ELMWOOD

22 Address: 701 S. Abel Street, Milpitas, CA 95035

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for  
 24 more than one crime, list each crime separately using Penal Code numbers if known. If you are  
 25 challenging more than one sentence, you should file a different petition for each sentence.)

26 Section 2735, 2736 Penal Code

3. Did you have any of the following?

Arraignment: Yes ☒ No ☐

Preliminary Hearing: Yes ☒ No ☐

Motion to Suppress: (?) Yes ☐ No ☒

4. How did you plead?

Guilty ☐ Not Guilty ☒ Nolo Contendere ☐

Any other plea (specify) 3 Misc.

5. If you went to trial, what kind of trial did you have?

Jury ☐ Judge alone ☒ Judge alone on a transcript ☐

6. Did you testify at your trial? Yes ☒ No ☐

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes ☒ No ☐

(b) Preliminary hearing Yes ☒ No ☐

(c) Time of plea Yes ☒ No ☐

(d) Trial Yes ☒ No ☐

(e) Sentencing Yes ☒ No ☐

(f) Appeal Yes ☒ No ☐

(g) Other post-conviction proceeding Yes ☐ No ☐

8. Did you appeal your conviction? Yes ☒ No ☐

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes ☒ No ☐

Year: 2007 Result: Partial Reversal

Supreme Court of California Yes ☒ No ☐

Year: 2007 Result: None. Clerk claim not received

Any other court Yes ☐ No ☐ Notice

Year:            Result:           

(b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes \_\_\_\_\_ No ✓

2 (c) Was there an opinion? Yes ✓ No \_\_\_\_\_

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?  
 4 Yes \_\_\_\_\_ No \_\_\_\_\_

5 If you did, give the name of the court and the result:

6 \_\_\_\_\_  
 7 \_\_\_\_\_

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to  
 9 this conviction in any court, state or federal? Yes \_\_\_\_\_ No \_\_\_\_\_

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that  
 11 challenged the same conviction you are challenging now and if that petition was denied or dismissed  
 12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit  
 13 for an order authorizing the district court to consider this petition. You may not file a second or  
 14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28  
 15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following  
 17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: \_\_\_\_\_

19 Type of Proceeding: \_\_\_\_\_

20 Grounds raised (Be brief but specific):

21 a. \_\_\_\_\_

22 b. \_\_\_\_\_

23 c. \_\_\_\_\_

24 d. \_\_\_\_\_

25 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

26 II. Name of Court: \_\_\_\_\_

27 Type of Proceeding: \_\_\_\_\_

28 Grounds raised (Be brief but specific):

1 a. \_\_\_\_\_  
 2 b. \_\_\_\_\_  
 3 c. \_\_\_\_\_  
 4 d. \_\_\_\_\_  
 5 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

6 III. Name of Court: \_\_\_\_\_  
 7 Type of Proceeding: \_\_\_\_\_  
 8 Grounds raised (Be brief but specific):  
 9 a. \_\_\_\_\_  
 10 b. \_\_\_\_\_  
 11 c. \_\_\_\_\_  
 12 d. \_\_\_\_\_  
 13 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

14 IV. Name of Court: \_\_\_\_\_  
 15 Type of Proceeding: \_\_\_\_\_  
 16 Grounds raised (Be brief but specific):  
 17 a. \_\_\_\_\_  
 18 b. \_\_\_\_\_  
 19 c. \_\_\_\_\_  
 20 d. \_\_\_\_\_  
 21 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes \_\_\_\_\_ No \_\_\_\_\_

24 Name and location of court: \_\_\_\_\_

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to  
 27 support each claim. For example, what legal right or privilege were you denied? What happened?  
 28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you



1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: Constitutional Rights of Due Process; and CA CDP § 80.10 [1];  
6 § 80.06 rights to compulsory process, § 80.10 rights to present a defense.

7 Supporting Facts: In fall of 2004, I asked Public Defender, Tanya Smith to  
8 investigate several key areas, such as phone records of evening of March 19, 2004.  
9 She denied that. That impeded my ability to present a defense  
10 at "pre-trial" and "trial."

11 Claim Two: Constitutional Rights of Due Process; and CA CDP § 80.10 [1]  
12 § 80.05, 09 rights to an impartial jury, § 80.09 impartial judge.

13 Supporting Facts: In Spring of 2005, I asked Judge Shapiro for a venue  
14 change (see court transcript). Judge Shapiro presided on the  
15 "pre-trial." In summer of 2006, he was assigned to be the trial  
16 judge. Since he formed his opinion in "pre-trial", he is not impartial at trial.

17 Claim Three: Constitutional Rights of Due Process; and CA CDP § 80.10 [1]  
18 § 80.03 right to present at proceeding, § 80.07 rights to confrontation as a component,

19 Supporting Facts: During the Sixth District Appeal process. The Appeal was  
20 filed before I even had a chance to review it. Dist. Attorney Amir Alon  
21 did not provide critical information to the <sup>Appeal</sup> attorney. Only a portion of Judge  
22 Shapiro's decision was reversed. I was basically denied the appeal for  
23 the cri

24 If any of these grounds was not previously presented to any other court, state briefly which  
25 grounds were not presented and why:

26 I did not know of any then, and the attorney did not  
27 advise me of these rights.  
28

## B. Grounds for Relief (continued)

Claim Four: Constitutional Rights of Due Process; and CA CDP § 80.10 [1] § 80.09 rights to prosecutorial fairness.

Supporting Facts: In September of 2006, I was told to plead "No Contest" to § 273.6 PC. Judge Shaprio, later said, pleading "No Contest" is the same as pleading "guilty". I was not informed as such.

Claim Five: Constitutional Rights of Due Process and Equal Protection, CA CDP § 80.10 [1], § 80.09 rights to prosecutorial fairness.

Supporting Facts: Initially, Morgan Hill police, Officer Zen did not conduct a fair investigation. By the time of "pre-trial" and "trial", both Officer Zen and Asst. DA Amir Alum already knew the allegations could be false. They acted in a biased, unfair manner.

Claim Six: Constitutional Rights of Due Process; and CA CDP § 80.10 [1] § 80.09 rights to prosecutorial fairness.

Supporting Facts: In summer of 2007, after only a partial reversal of Judge Shaprio's decision. I filed a Notice of Appeal to California State Supreme court in SF. I was in county jail for an alleged "Probation Violation" since February 15<sup>th</sup> that year. I was denied access to postage stamps to communicate to the court. I was infraacted five (5) times) for doing nothing different from others. On February 28<sup>th</sup>, I was put in solitary confinement, in a room with heat blocked off, and I was not issued a mattress, which is also against Rule book, I later found. I was told not to appeal! My legal mail was opened. Mail was missing. When I went out in November, I went to State Office in San Francisco. I was told they never received the Notice I filed. I was denied from appeal again.

1 List, by name and citation only, any cases that you think are close factually to yours so that they  
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning  
3 of these cases:  
4  
5  
6

7 Do you have an attorney for this petition?

Yes \_\_\_\_\_

No ☒

8 If you do, give the name and address of your attorney:  
9

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in  
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.  
12

13 Executed on

June 13, 2008

14 Date

[Signature]

Signature of Petitioner

20 (Rev. 6/02)





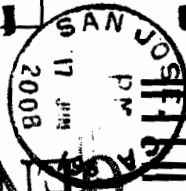
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